UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1999/113
29 January 1999

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-fifth session
Item 14 (b) of the provisional agenda

SPECIFIC GROUPS AND INDIVIDUALS: MINORITIES

Rights of persons belonging to national or ethnic, religious and linguistic minorities

Report of the Secretary-General

GE.99-10751 (E)

CONTENTS

	Paragraphs	Page
Introduction	1 - 3	3
I. TREATY BODIES	4 - 12	3
A. Human Rights Committee	5 - 6	4
B. Committee on Economic, Social and Cultural Rights	7 - 8	4
C. Committee on the Elimination of Racial Discrimination	9 - 10	4
D. Committee on the Rights of the Child	11 - 12	5
II. SPECIAL RAPPORTEURS	13 - 23	5
A. Special Rapporteur on religious intolerance	13 - 14	5
B. Special Rapporteur on extrajudicial, summary or arbitrary executions	15 - 17	6
C. Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia	18 - 19	7
D. Special Rapporteur on the situation of human rights in Iraq	20 - 21	7
E. Special Rapporteur on the situation of human rights in Myanmar	22 - 23	8
III. TECHNICAL COOPERATION	24 - 25	8
IV. WORKING GROUP ON MINORITIES	26 - 31	9

Introduction

1. The Commission on Human Rights, in its resolution 1998/19 in which it urged States and the international community to promote and protect the rights of persons belonging to national or ethnic, religious and linguistic minorities as set out in the Declaration; recommended that the human rights treaty bodies give particular attention to the implementation of articles relating to the rights of persons belonging to national or ethnic, religious and linguistic minorities; called upon the Secretary-General to make available qualified expertise on minority issues, including the prevention and resolution of disputes, to assist in existing or potential situations involving minorities; requested the High Commissioner for Human Rights to continue her efforts to improve the coordination and cooperation of United Nations programmes and agencies which deal with minority issues; called upon special representatives, special rapporteurs and working groups of the Commission to continue to give attention to situations involving minorities; and commended the role of the Working Group on Minorities of the Sub-Commission.

2. The Commission on Human Rights also requested the Secretary-General to report to it at its fifty-fifth session on the implementation of the resolution.

3. Information contained in the report, which is submitted pursuant to resolution 1998/19, is drawn from the concluding observations of the relevant treaty bodies, the reports of the special representatives and special rapporteurs submitted to the Commission on Human Rights at its last session, the annual report on activities undertaken in the area of advisory services and technical cooperation, and the report of the Working Group on Minorities at its fourth session. The information highlighted pertains to the promotion and protection of the rights of persons belonging to minorities as contained in the international human rights instruments in general, and in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities in particular. Due to limited space, only substantive information on minorities has been reflected in this report.

I. TREATY BODIES

4. The committees established to monitor the progress made by States parties in fulfilling their obligations under human rights treaties have continued to pay attention to the promotion and protection of the rights of persons belonging to minorities. The committees which are of particular relevance to the implementation of minority rights are the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child. During the period under review, States parties have continued to submit reports to the respective committees outlining the legislative, judicial, policy and other measures which they have taken to ensure the enjoyment of, inter alia, the minority-specific rights contained in the relevant instruments.

A. Human Rights Committee

5. At its sixty-second session, held from 23 March to 9 April 1998, the Human Rights Committee considered the reports of Cyprus (CCPR/C/94/Add.1), Finland (CCPR/C/95/Add.6), Uruguay (CCPR/C/95/Add.9) and Zimbabwe (CCPR/C/74/Add.3). At its sixty-third session, held from 13 to 31 July 1998, the Human Rights Committee considered the reports of Algeria (CCPR/C/101/Add.1), Ecuador (CCPR/C/84/Add.6), Israel (CCPR/C/81/Add.13), Italy (CCPR/C/103/Add.4), the former Yugoslav Republic of Macedonia (CCPR/C/74/Add.4) and the United Republic of Tanzania (CCPR/C/83/Add.2).

6. In its concluding observations on these reports, the Committee on Human Rights referred to the rights of persons belonging to minorities to develop their culture, speak their mother tongue and use their own language in communications with authorities. The Committee also highlighted the rights of persons belonging to minorities to establish and maintain their own associations and to participate in the political, administrative and cultural life of society.

B. Committee on Economic, Social and Cultural Rights

7. At its eighteenth session, held from 27 April to 5 May 1998, the Committee on Economic, Social and Cultural Rights considered the reports of the European part of the Netherlands, Netherlands Antilles, and Aruba (E/1990/6/Add.11), Nigeria (E/1990/5/Add.31), Poland (E/1994/104/Add.13) and Sri Lanka (E/1990/5/Add.32). At its nineteenth session, held from 16 November to 12 December 1998, the Committee considered the reports of Canada (E/1994/104/Add.14), Cyprus (E/1994/104/Add.12), Germany (E/1994/104/Add.14), Israel (E/1990/5/Add.39) and Switzerland (E/1990/5/Add.33).

8. In its concluding observations on these reports, the Committee referred to the provision of subsidies for the construction of places of worship and the realization of the right to take part in cultural life, as well as the conclusion of bilateral treaties with kin States. The Committee also referred to the rights of minority groups to practise their religion and teach their own culture and participate in national, political and economic life.

C. Committee on the Elimination of Racial Discrimination

9. The Committee on the Elimination of Racial Discrimination held its fifty-second session from 2 to 20 March 1998 and considered the State party reports of Armenia (CERD/C/289/Add.2), Cambodia (CERD/C/292/Add.2), Cameroon (CERD/C/298/Add.3), the Czech Republic (CERD/C/289/Add.1), Israel (CERD/C/294/Add.1), Lebanon (CERD/C/298/Add.1), the Libyan Arab Jamahiriya (CERD/C/299/Add.13), the Netherlands (CERD/C/319/Add.2), the Russian Federation (CERD/C/299/Add.15), Switzerland (CERD/C/279/Add.1), Ukraine (CERD/C/29/Add.14) and Yugoslavia (CERD/C/299/Add.17). At its fifty-third session, from 3 to 21 August 1998, the Committee considered the State party reports of Croatia (CERD/C/290/Add.1), Cuba (CERD/C/319/Add.4), Cyprus (CERD/C/299/Add.1), Gabon (CERD/C/315/Add.1), Jordan (CERD/C/318/Add.1), Morocco (CERD/C/298/Add.4), Nepal (CERD/C/298/Add.1), Niger (CERD/C/299/Add.18) and Tonga (CERD/C/319/Add.3).

10. In its concluding observations on these reports, the Committee on the Elimination of Racial Discrimination referred to the constitutional and legislative protection of the rights of minorities, and to federal laws adopted by some countries. The Committee also referred to the rights of minorities to learn their own language and the role of the media in protecting and promoting their rights. Reference was also made to discrimination against persons belonging to ethnic minorities, including on the basis of language and citizenship. The Committee recommended the provision of education and training on tolerance and human rights issues to judges, lawyers and civil servants as a means to better protect the distinct and unique identity of minority groups.

D. Committee on the Rights of the Child

11. At its seventeenth session, held from 5 to 23 January 1998, the Committee on the Rights of the Child considered the reports of Ireland (CRC/C/11/Add.12), the Libyan Arab Jamahiriya (CRC/C/28/Add.6) and Micronesia (CRC/C/28/Add.5). At its eighteenth session, held from 19 May to 5 June 1998, the Committee considered the reports of Maldives (CRC/C/8/Add.33 and 37), Luxembourg (CRC/C/41/Add.2), Japan (CRC/C/41/Add.1), Hungary (CRC/C/8/Add.34), Fiji (CRC/C/28/Add.7) and the Democratic People's Republic of Korea (CRC/C/3/Add.41). At its nineteenth session, the Committee considered the reports of Thailand (CRC/C/41/Add.3), Kuwait (CRC/C/8/Add.35), Iraq (CRC/C/41/Add.3), Ecuador (CRC/C/3/Add.44) and Bolivia (CRC/C/65/Add.1).

12. In its concluding observations on the above-mentioned reports, the Committee referred to the rights of children belonging to minorities to education, to learn and use their own language, and to their rights to a nationality and non-discrimination. The Committee also referred to the issue of citizenship and the need for children to have access to education, vocational training and adequate social programmes.

II. SPECIAL RAPPORTEURS

A. Special Rapporteur on religious intolerance

13. The Special Rapporteur on religious intolerance, Mr. Abdelfattah Amor, in his report of his visit to Germany in February 1997 (E/CN.4/1998/6/Add.2) devoted particular attention to the study of legislation relating to tolerance and non-discrimination in the field of religion or belief, its implementation and the policy in force. He made specific reference to the situation of the Jewish and Muslim minorities in Germany.

14. The Special Rapporteur mentioned that the Jewish minority enjoyed a privileged situation in the area of religious freedom. Religious instruction of Judaism is guaranteed, private schools and places of worship exist in sufficient numbers, and the Jewish community has the right to appropriate broadcasting time on the public and private radio network throughout the country. With respect to the rights of the Muslim minority, the attention of the international community was drawn to the fact that Islam is not taught in State schools and there was therefore a need for inter-religious education to facilitate the integration of Muslims and to encourage tolerance within society. An additional issue identified by the Special Rapporteur pertained

to the granting of the status of legal person in public law which Muslims have applied for but have not yet obtained. This status would enable the Muslim minority to enjoy the benefits and rights granted to the dominant religions, the Jewish community and other groups such as the Mormons. In his recommendations, the Special Rapporteur mentioned that the introduction of the teaching of Islam in State schools would be extremely useful. On a more general note, the Special Rapporteur stressed that the State must implement a strategy to prevent intolerance in the field of religion and belief and that sustained efforts are required to promote and develop a culture of tolerance and human rights.

B. Special Rapporteur on extrajudicial, summary or arbitrary executions

15. In his report (E/CN.4/1998/68 and Corr.1 and Add.1), the Special Rapporteur, Mr. Bacre Waly Ndiaye, examined situations of extrajudicial, summary or arbitrary executions, responded to information received and enhanced further his dialogue with Governments. The Commission on Human Rights requested the Special Rapporteur to pay special attention to violations of the right to life of, inter alia, persons belonging to ethnic minorities. In this connection, the Special Rapporteur took action on behalf of a number of persons belonging to national, ethnic, religious or linguistic minorities.

16. During the period November 1996 to October 1997, the Special Rapporteur sent urgent appeals on behalf of three indigenous persons belonging to the Tolupan in Honduras, 140 indigenous families from the Suminao Clan in the Philippines, two persons who had adopted the Baha'i faith in the Islamic Republic of Iran, and members of the Guarani-Kiowa indigenous community in Brazil, requesting the authorities to take the necessary measures to protect their right to life. In addition, the Special Rapporteur acted on behalf of the following persons belonging to national, ethnic, religious or linguistic minorities whose right to life was reportedly violated: 8 indigenous persons in Colombia; 2 indigenous persons in Guatemala; 2 persons belonging to the Tolupan indigenous group in Honduras; 2 indigenous persons in Mexico; 3 persons belonging to the Suminao Clan in the Philippines; 81 persons belonging to the Roma minority in Romania; several persons belonging to the Karen ethnic minority and 1 person belonging to the Karenni ethnic minority, all having fled from Myanmar to Thailand; 2 villagers belonging to the Shan ethnic minority in Myanmar.

17. In his concluding remarks and recommendations, the Special Rapporteur noted that one of the most prevalent targets of extrajudicial, summary or arbitrary executions has continued to be persons preventing and combating racial, ethnic or religious discrimination, and persons belonging to minorities. With reference to States in which acts of communal violence occur, the Special Rapporteur recommended that they should do their utmost to curb such conflicts at an early stage, and to work towards reconciliation and peaceful coexistence of all segments of the population regardless of ethnic origin, religion, language or any other distinction. Governments should at all times refrain from any propaganda or incitement to hatred and intolerance that might foment acts of communal violence or condone such acts and bring to justice perpetrators of such acts.

C. Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia

18. In her final report (E/CN.4/1998/63), the Special Rapporteur, Ms. Elisabeth Rehn, provided an overview of the situation and the status of minorities in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia.

19. With reference to Croatia, the Special Rapporteur noted that the failure to resolve the question of property rights has been a major obstacle to the return of Serb refugees who continue to face serious difficulties regarding access to properties given over to displaced and immigrant Croats. In this connection, the Special Rapporteur reiterated her view that all citizens' property rights must be respected equally. In addition, imbalances remain in the provision of reconstruction assistance for destroyed houses, with priority apparently still being given to ethnic Croats. Discrimination by employers against Croatian Serbs continues to be reported in the workplace. With reference to the situation in the Federal Republic of Yugoslavia, the Special Rapporteur has, throughout her mandate, paid particular attention to the situation of human rights in Kosovo, especially in regard to the demand of Albanian students to return to school and university premises. With regard to the situation in Sandzak, the Special Rapporteur continued to receive information indicating that members of the Muslim community experience discrimination, especially in employment and education and that laws are selectively applied depending on a person's ethnicity. The Special Rapporteur expressed concern that the recommendations she made in her earlier reports have largely been ignored. She stated that until these issues, which affect all citizens, are addressed, the problems of specific groups in society, such as ethnic and linguistic minorities, will remain unresolved.

D. Special Rapporteur on the situation of human rights in Iraq

20. In his report (E/CN.4/1998/67), the Special Rapporteur, Mr. Max van der Stoel, strongly condemned the massive and extremely grave violations of human rights and of international humanitarian law by the Government of Iraq, resulting in an all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror. In his report, the Special Rapporteur drew the attention of the international community to the practice of forced displacement from Kirkuk, Khanaqin and Douz which continues to be implemented by the Iraqi authorities. Kurds and Turkomen who settled in these places after the 1950s are the principal victims of this policy. Kurdish and Turkoman families are required to move either to the southern part of the country or to the three northern governorates. At the same time, Arabs are reportedly encouraged to settle in Kirkuk, in pursuance of the Government's policy of Arabization. Furthermore, members of religious and ethnic minorities continue to fear discrimination in Iraq, in particular Shiites in the Southern Marshes and Kurds.

21. The Special Rapporteur noted with deep concern reports stating that the effect of the embargo is harsher on members of ethnic and religious minorities, and that there exists discrimination in the allocation by the authorities of the limited resources available between rural and urban areas

and against the southern region with respect to the Marsh people. The Special Rapporteur recommended that the Government of Iraq immediately bring to an end summary or arbitrary executions, arbitrary arrests and detention, torture and ill-treatment by members of the security and military forces, disappearances of thousands of people in northern Iraq and the southern Marsh area, and forced relocations. He urged the Government to ensure that the persons responsible for those acts are brought to justice without delay.

E. Special Rapporteur on the situation of human rights in Myanmar

22. In his report (E/CN.4/1998/70), the Special Rapporteur, Mr. Rajsoomer Lallah, expressed concern at the continuing violations of human rights in Myanmar including, inter alia, the imposition of oppressive measures directed in particular at ethnic and religious minorities. He referred specifically to the forced relocation and other violations of the rights of persons belonging to minorities, resulting in a flow of refugees to neighbouring countries, and the continuing attacks on groups resulting in death, destruction and displacement. He also drew the attention of the international community to the plight of children belonging to ethnic and religious minority groups who are subjected to forced labour. The Special Rapporteur on the question of torture informed the Government of Myanmar about reports indicating that the Myanmar army still uses torture and ill-treatment against members of ethnic minorities in Shan and Mon states and in Tanintharyi division. According to these reports, members of ethnic minorities are forced to serve as porters for the army. Any person who cannot carry the required load is subjected to punishment and ill-treatment.

23. In his conclusion, the Special Rapporteur confirmed that extrajudicial, summary or arbitrary executions, the practice of torture, portering and forced labour continue to occur in Myanmar, particularly in the context of development programmes and of counter-insurgency operations in minority-dominated regions. He added that there still remain clear violations of the right to freedom of movement and residence in Myanmar, especially in respect of the Muslim Rakhine population, which include racially based restrictions on travel inside the country and abroad. The Special Rapporteur also raised the question of the consistency of citizenship laws with international human rights standards since those laws appear to be discriminatory on the basis of ethnicity, leading to serious violations of the rights of minorities. The Special Rapporteur recommended that the Government revise the laws on citizenship and conduct a high-level inquiry into the serious human rights violations which have occurred in areas where ethnic minorities live or to which they are being forcibly displaced. The Government of Myanmar should promote the civil, political, social, economic and cultural rights of minorities as well as their participation in public life without restriction or discrimination.

III. TECHNICAL COOPERATION

24. Under the leadership of the High Commissioner for Human Rights, the programme of advisory services and technical cooperation aims at assisting Governments, at their request, in promoting and protecting human rights at the national and regional levels. In particular, assistance is provided on incorporating international human rights standards in national laws, policies

and practices and building national capacity and regional structures for the promotion and protection of all human rights, democracy and the rule of law. Generally, assistance may take the form of expertise, advisory services, institution-building, training courses, workshops and seminars, fellowships, grants and the provision of information and documentation. In the area of minority protection, Governments may request qualified expertise on minority issues, including the prevention of disputes, to assist in existing or potential situations involving minorities.

25. During the period under review, a number of projects were undertaken that may possibly have an indirect impact on the strengthening of minority protection and the reduction of tensions between groups. These include: a training course on human rights monitoring and law enforcement for International Police Task Force members of the United Nations Mission in Bosnia and Herzegovina and for civilian police monitors of the United Nations Transitional Authority in Eastern Slavonia; the provision of legal advisers to analyse human rights problems for people applying for citizenship in Latvia; and the organization of an expert meeting on the preparation of a handbook on human rights, minorities and conflict management for human rights and conflict management practitioners.

IV. WORKING GROUP ON MINORITIES

26. From 25 to 29 May 1998, the Working Group on Minorities of the Sub-Commission on Prevention of Discrimination and Protection of Minorities held its fourth session. The Working Group has continued to carry on its work in accordance with the mandate entrusted to it, namely to: review the promotion and practical realization of the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; examine possible solutions to problems involving minorities; and recommend further measures for the promotion and protection of their rights.

27. The Working Group is composed of the following five experts, members of the Sub-Commission: Mr. José Bengoa (Chile), Mr. Asbjørn Eide (Norway), Mr. Vladimir Kartashkin (Russian Federation), Mr. Mustapha Mehedi (Algeria) and Mr. Soli Sorabjee (India). The last three are new members, elected to the Sub-Commission at the 1998 session of the Commission. Participants at the fourth session of the Working Group included representatives of over 30 Governments, 4 specialized agencies, over 20 non-governmental organizations in consultative status, over 80 minority organizations and approximately 20 scholars.

28. The deliberations of the Working Group focused on the practical realization of the Declaration, in particular the right of minorities to use and learn their own language, profess and practise their own religion and enjoy their own culture. Many representatives brought the situation of minorities in their own country to the attention of the Working Group and highlighted recommendations for solutions to the problems identified. The discussions on thematic issues centred on the working and conference room papers prepared on the following subjects: a commentary on the principles contained in the Declaration, best practices in the area of minority protection, the role of the media in protecting minorities, effective

political participation and representation of minorities, the presidential round table in Estonia (an example of a conciliation mechanism) and the role of bilateral treaties in protecting minorities.

29. In order to increase awareness of other human rights mechanisms and procedures, presentations were made to the Working Group by staff of the secretariat of the Human Rights Committee, the Committee on the Rights of the Child, the practical application of the "1503 procedure", and by the Special Rapporteurs on religious intolerance and on freedom of opinion and expression. In addition, presentations were made by the ILO, UNESCO and WHO on their activities in the field of minority protection.

30. The following recommendations were adopted by the Working Group:

(a) In order to continue the focus on thematic issues, each member of the Working Group agreed to prepare a working paper, on: conflict prevention in situations involving minorities (Mr. Sorabjee); existence and recognition of minorities (Mr. Bengoa); multicultural and intercultural education (Mr. Mehedi); citizenship and the rights of non-citizens (Mr. Eide); and universal and regional mechanisms for minority protection (Mr. Kartashkin);

(b) The Working Group decided that the members would be available for visits to countries at the invitation of the Governments concerned, on condition that funding was available;

(c) The Working Group decided that it would make available to Governments, in conformity with article 6 of the Declaration, situations which have been brought to the attention of the Working Group during its session. To this end, standard letters will be transmitted to the Governments concerned, including one paragraph on the issues which were raised;

(d) The Commentary to the Declaration (E/CN.4/Sub.2/AC.5/1998/WP.1) will be submitted to Governments, agencies and non-governmental organizations for comments and suggestions as a means to continue the discussion, at the next session, on the content and scope of the principles contained in the Declaration. On this basis, the Working Group will initiate a practice of developing interpretative comments on individual articles of the Declaration;

(e) It was suggested that the specialized agencies be called upon to provide information on their activities in the field of minority protection (in conformity with article 9 of the Declaration) to the Working Group well in advance, thereby allowing for more detailed discussion about their policies and programmes. It was also decided that NGOs wishing to participate at the next session send to the secretariat, in advance, specific questions on the role and activities of the specialized agencies so that responses could be prepared in good time;

(f) The Working Group decided to make contact with research institutes and NGOs to review the information on the protection of the rights of persons belonging to minorities submitted by States to treaty bodies and with regard to questions raised during the consideration of relevant reports, with a view to the preparation of a compilation of its work in this field. Similar contacts will be made with regard to the work of the special rapporteurs;

(g) The Working Group recommended that a feasibility study be prepared by one or more NGOs such as the Minority Rights Group in London and the Centre on Ethnic Studies of Colombo on the establishment of a database on minority issues;

(h) The Working Group recommended that a pocket edition of the Declaration be prepared in the national as well as minority languages. Translation into minority languages could be entrusted to the minorities concerned, with the possible collaboration of international NGOs;

(i) The Working Group suggested that steps be taken to ensure more active participation by States in forthcoming sessions;

(j) The Working Group recommended the establishment of a voluntary fund to enable greater participation of minority representatives at the Working Group's sessions and for members of the Working Group to visit countries at the invitation of Governments concerned;

(k) The Working Group decided to organize expert seminars between the sessions of the Working Group, focusing primarily on the subjects of the working papers for the next session.

31. The report of the Working Group at its fourth session is contained in document E/CN.4/Sub.2/1998/18.